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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,868	09/15/2003	Brian K. Allston	89190.039403/DP309564	2143

22851 7590 12/16/2004
DELPHI TECHNOLOGIES, INC.
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EXAMINER

BENTON, JASON

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,868

Applicant(s)

ALLSTON ET AL. *CA*

Examiner

Jason Benton

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-12, 14, 15, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Suh et al.

The patent by Suh et al. (5,524,582) shows a method of fueling an internal combustion engine with the steps of

- a.) providing a first fueling system (58) for selectively metering a hydrocarbon fuel to the engine;
- b.) providing a second fueling system (22) for selectively metering a hydrogen containing fuel gas to the engine; and
- c.) selecting and controlling a ration of amounts of hydrocarbon fuel and hydrogen-containing fuel gas provided by the first and second systems to the engine (Fig. 2).

The hydrocarbon fuel is selected from the group of gasoline, diesel fuel, and ethanol.

The engine is started on a mixture of the fuel and fuel gas wherein at least 90% of the motive energy of the engine is derived from the fuel gas. The supply ration is

Art Unit: 3747

progressively changed between the hydrocarbon fuel and the hydrogen –containing fuel gas such that, when the engine reaches an equilibrium operating temperature, an optimum fraction of the motive energy of the engine is derived from the hydrocarbon fuel. The optimum fraction is at least 90%.

100% of the motive energy of the engine is derived from the hydrogen containing fuel gas during the starting up of the engine.

The supply ratio is set to minimize the levels of unburned hydrocarbons in an exhaust stream of the engine.

The hydrogen containing fuel gas supply system is a pressure vessel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 13, and 16-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Suh et al.

The patent by Suh et al. (5,524,582) discloses a compressed gas as the fuel but does not specify the type of gas used. It is the view of the examiner that using hydrogen gas and hydrogen reformants as fuel is well known in the art.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a hydrogen gas or hydrogen reformant gas as fuel because Applicant has not disclosed that hydrogen or hydrogen

Art Unit: 3747


reformant provides an advantage , is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a different compressed gas because the combustion properties are predictable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Benton whose telephone number is (571) 272-4838. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JB



Noah P. Kamen
Primary Examiner